

# THE CASE OF

*Mainwaring, Hawes, Payne and others,*

Concerning a Depredation made by the  
*Spanish-West-India Fleete*, upon the  
 Ship ELIZABETH.

*Restitution sought in Spayne; Justice denied; and  
 thereupon, according to Lawe, Justice Peti-  
 tioned of the Honorable Houses of*  
 PARLIAMENT.

In which is prayed, That ( out of 50000. l. Deposited in the  
 PARLIAMENTS hands, in lieu of Plate and Mer-  
 chandize by them formerly arrested ) Satisfaction may bee  
 made.



Printed Anno 1646.



( 3 )

**To the Right Honourable the  
Lords and Commons assembled in  
PARLIAMENT.**

The humble Petition of *Randall Mainwaring, Nathaniell Hawes,  
George Payne, and others.*

**S H E W E T H :**



Hat the Ship *Elicabeth*, her tackle, furniture, and lading, valued at 12000*l.* belonging to *Ioseph Hawes* Merchant, and Company: going on a trading voyage for Virginia, was about 250. Leagues short thereof, surpris'd and taken by eleven Saile of the Spanish West India Fleet, all under the command of one Generall, in the year 1637. whereof 4. were Galeons of the Kings, the rest Merchants ships, who shared the goods among them, barbarously abused the Mariners and Passengers, and carry'd the sayd Ship into Spaine, and there detain'd her unto this day. That the sayd *Hawes* prov'd his losse in Spaine, and in the Admiralty of England, and had certificate thereof, to His Majesty, and the Lords of his Privy Councell; was favoured with Letters to the Lord *Aston*, and afterwards to Sir *Arthur Hopton*, when they were respectively Embassadors in Spaine, who indeavoured his satisfaction with that State, but could procure no reall retribution, as by the Copies of the sayd Certificate and Letters, may more at large appeare. Since which time, *Ioseph Hawes* (formerly of good estate) by the sayd losse utterly undone, died in prison; and *Randall Mainwaring, Nathaniel Hawes, and George Payne*, now Petitioners to your Honours (left ingag'd in several great summes of money for him) as next of kindred, have taken out Letters of Administration, and in December 1642. arrested (by Warrant out of the Admiralty) certaine Plate, Moneyes, and Merchandise, arriving at Southampton, in the ship the *St. Clare*, which were laden

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into

into her out of the Spanish West India Fleet, in which were divers ships and men that were in the Fleet that robbed the *Elizabeth*, and made the aforesaid depredation, and both which fleets were set out by the same authority, and for the same use and purpose. After which arrest made by your Petitioners and some others, (by the Order of the Honourable House of Commons heereunto annexed) 50000l. was deposited in the hands of the Parliament, in stead of Bayle to answer those Accidns, by the claymers of the aforesayd goods, and the goods in their property were released. And in pursuance of the sayd Arrest your Petitioners have made to cleare proofe, that not only the Judge of the Admiralty, but they who tooke the Defence of the Spitt upon them against your Petitioners, doe acknowledge, That the taking of the sayd ship *Elizabeth*, was a manifest and most shamefull depredation, and that your Petitioners ought to have repayre for the same, which the sayd Judge must needs affirme, if he be thereunto required: Notwithstanding all which, the sayd Judge (forasmuch as the monyes aforesayd remaine deposited in the hands of the Parliament, and for that the satisfaction of your Petitioners out of this money is conceived to be matter of State) doth defer to give Sentence, for that the Supreme power hath not hitherto declared, That the goods arrested are in point of State liable to make your Petitioners satisfaction.

In tender consideration of all which, Forasmuch as your Petitioners have used in Spaine all meanes requisite by Law, and possible against the persons of those that made the depredation, and cannot obtayne justice, and have no possibility of being repayred, but by that supreme power to which they are subject: And for as much as that power, not only by the Lawes of this Realme, but by the Law of Nations, may relieve oppressed subjects by Letters of reprizall, being the only and usuall remedy afforded in cases of this nature.

Your Petitioners most humbly pray, and beseech this honourable Assembly, to take their case into your serious commiseration, and to grant Letters of reprizall to your Petitioners to be repaired of their said losses and damages out of the money deposited in the Parliament, that so your oppressed Petitioners, who have been most unjustly spoiled by the Spaniard, and as unjustly denied restitution; may by the justice of this Honourable Assembly, receive such recompence as the Law will give them, when the supreme power of this kingdome shall have decreed the Letters of reprizall to your Petitioners.

And your Petitioners as in duty shall continue to pray  
for your Honours.

# The Order of the house of COMMONS.

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*Die Luna 2. Januarii: 1642.*

**T**He Merchants, Spanyards and owners of the Ship the *Clare*, having this day, in obedience to an Order of this House of 29. Decemb. last past, paid in the summe of 20000l. which with the 30000l. formerly delivered into the Tower, is to stand liable in stead of bail to all Suits, Arrests and Claims according to Law, as the goods should have been, if they had still continued in custody, made either by the Spanish Embassador, or any other whomsoever concerning the premises; this House doth therefore order, that all those persons Sir *J<sup>no</sup> Nulls*, or whomsoever else here, or at Southampton, in whose custody the *Cochinela*, *Ginger*, *Hides*, and other goods brought in the Ship the *Clare* do remain; do forthwith deliver up the said goods unto *Ignasio Landabola*, *Diego Descarey*, *Benedict Stafford*, and *John Mayo*, for the use of themselves, and the rest of the Merchants and owners, free from any present or future restraint or trouble whatsoever, they paying freight, custome, and all other charges duly disbursed by the said Masters and owners, any wayes concerning the said goods; And this House doth further order, that the Judge of the Admiralty, and others whom it may concern, take due notice of this Order, and do nothing in prejudice of the reall execution thereof.

Hen. Elsynge, *Cler. Parl. Dom. Com.*<sup>1</sup>

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Sir Henry Martin's Certificate to the  
Lords of his Majesties most honorable  
Privy Councell.

Right Honorable,



According to your Lordships Order signified under the Petition annexed, the Petitioners have examined witnesses in the Admiralty-Court, to prove the points deduced in the Petition, which I conceive to be these foure. First, That eleven sayle of *Spanish* Ships, part of the Plate-fleete, surprized and tooke the ship *Elizabeth* from the Petitioners in 1637. in her course upon a trading Voyage for *Virginia*; about 250 leagues short of *Virginia*, and carried her and all that was in her into *Spain*, and there deteineth her. Secondly, That the whole value thereof with the damage, doth amount to above 12000*l*. Thirdly, That the Company in the *Spanish*-fleete, robbed and spoyled the company in the *Elizabeth* of all they had, and imprisoned some of the Mariners in *Spain*. Fourthly, and lastly, That the Petitioners used all good endeavours to recover their goods, but all in vaine. All which foure points, I take to be sufficiently testified with this, That the Lord *Aston*, then Lord Ambassador for his Majesty in *Spain*, was then made privie to all the premises, and interposed his utmost endeavour in the behalfe of the Petitioners; whose Lordship is best able to informe your Honours upon what grounds the *Spanish* fleete did surprize the Petitioners, and the State there avow the proceeding and deny any restitution to the *English*.

March 15. 1638.

H. Martin.

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Their

# Their Lordships Letter into Spayne.



After our very hearty Commendations to your Lordship,  
We send you inclosed a Petition presented to this Board  
in the name of the Merchants and passengers of the ship  
called the *Elizabeth* of *London*, together with two  
Certificates concerning the same; The one from the  
Lord *Aston* his Majesties late Embassador resident there;  
The other from Sir *Henry Martin* Knight, Judge of the Admiralty :  
Whereby you will perceive with what violence and outrage the said ship  
the *Elizabeth*, was heretofore taken from the Petitioners by eleven sayle  
of the *Spanisb* Plate-fleete, and what proceedings have been since had for  
the recovery of the same; Whereof We have taken consideration, and be-  
ing desirous to protect his Ma<sup>ties</sup> subjects from wrongs and injuries, have  
thought good thereby in especiall manner to recommend it to your Care  
to imploy your best meanes and endeavors on the Petitioners behalfe, in  
representing the great damage and losse which they have sustained there-  
by, and pressing the same with all such Arguments and reasons, as you in  
your discretion shall think fit, according to the nature of the Case; to the  
end a speedy and full restitution may be made unto the Petitioners, and  
such satisfaction given them for the damage and charge which they have  
hitherto sustained, as to Justice doth apperteine, and as may be expected  
towards his Majesties Subjects from his Friends and Allies.  
Whereupon, in case such just restitution as aforesaid be cyther denied to  
the Petitioners, or that such delayes be used therein as may be construed  
and deemed a denial, you are forthwith to represent the same to this  
Board in expresse termes, that such further course may be taken for the  
Petitioners reparation and reliefe, as to his Majesty and this Board shall  
be found just. And so We bid your Lordship very heartily farewell.

From White-hall, the last day of April. 1639. Your loving Friends

Signed by the

Lo. Arch-B. of Cant.

Lo. Cottingham.

Lo. Keeper.

Lo. Newburge.

Lo. Treasurer.

Mr. Comptroller.

Lo. Privy Seale.

Mr. Sec. Windebank.

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# The English Ambassadors Answere out of Spaine.

Right Honorable,



HE Bearer hereof *Benjamin Woolnoe*, was Master of the ship called the *Elizabeth*; which in his voyage towards *Virginia*, was on the eleventh of *October* 1637, seized on by the Squadra of *Nova Espania*, and brought to *Cades*, with all her lading and passengers. For restitution of which ship, and for satisfaction for the losses and damages, it seemes my Lord *Aston*, in the time of his service in this Court, used all fit diligences; the effect whereof was, a promise that the ship and goods deposited at *Cadiz* should be forthwith restored. But in the execution thereof were interposed some delays, which continued untill the Master and his Company resolved on returning to their Country; and so nothing was executed at that time, nor before my Lord *Aston* returned for *England*.

Whereupon the Master and the parties interrested in the said ship and goods petitioned his Ma<sup>tie</sup>. and the Board for some course to be taken for their satisfaction, and accordingly the Lords having consulted with my Lord *Aston* and with Sir *Henry Martin* Judge of the Admiralty, were pleased to direct unto me their Lordships letter, bearing date the last day of *April* 1639. which came to my hands on the  $\frac{17}{12}$  of *August* of the same yeare; Commanding me to use all due meanes for the obtaining full and speedy satisfaction for the said losse: And in case the same should be detained, or that such delaies should be used therein, as might be construed or deemed a deniall, then to represent the same in expresse termes to the Board.

In humble obedience to which Order, I have from the said  $\frac{17}{12}$  of *August* spared no diligence to the effect above mentioned, having spoken to the King, and delivered him a paper containing the whole matter, as well in manifestation of the disorder, as in demand of due satisfaction according to reason and justice. And I have severall times spoken to, and solicited a Resolution therein with the *Conde Duque*, as a Minister of generall Care and Power; and with the *Conde de Castille* President of the Coun-

cell of the Judges, to whose charge the dispatch of this business doth particularly belong.

And although I have received many faire hopes and promises from all sides, and from time to time; yet untill the day of the date hereof, being the 1<sup>st</sup> of *May* in the year 1640. I have been able to get no Resolution, nor are the likelyhoods thereof greater now then they were the first day. And the Bearer hereof, *Benjamin Woolst*, being no longer able to suffer the charge of this expensive place, hath desired me to give my Certificate, according to the present state of this business, which I have done as above, said; leaving a construction upon the delay and want of Answer hitherto, to your Honours and their Lordships better judgements, to whom your Honors may please to give an account hereof as you shall thinke fit, and I doe humbly desire: Humbly representing herewithall, that if any other business remitted to me by their Lordships or your Honors, concerning his Majesties Subjects, I have failed to give cyther you or them the Answer that may be expected, It is because I can get none; which is the ordinary course of this Court, where the doing Justice is prejudiciall to the Kings Revenues; though in other matters their dispatch be not to be complained of.

I shall trouble your Honors no more, but humbly rest;

*Your Honors most humble servants.*

*Madrist* 17<sup>th</sup>

ARTH. HOPTON.

## Articles of the Treaty 18 Aug. 1604.

### I.

**FIRST** It is concluded, and accorded; that from this day forward, there shall be a good, sincere, true, firme and perfect Amicie, League & Peace to endure for ever, and inviolably to be observed and kept, as well by Land as Sea, and fresh Waters, betwixt the most renowned king of *England, Scotland, France, and Ireland, &c.* And the most renowned king of *Spaine, &c.* And the most renowned Archdukes of *Austrie*, Dukes of *Burgundie, &c.* and their Heires and Successors whomsoever, their Kingdomes, Countries, Dominions, Lands, Peoples, Liegemen, and Subjects now being, or which hereafter shall be, of whatsoever condition, state, or degree they are or may be, so as the sayd Vassalls and Subjects

jects from henceforth are each of them to favour other and to use one another with all kind and friendly offices.

## II.

**A**ND each party shall hereafter abstaine from all depredations, offences and spoyles, as well by Sea, as Land, and fresh waters, in whatsoever the Kingdomes, Dominions, Places, or Governments of the other : neither shall the aforesayd Princes consent, that any of the grievances before mentioned, be done by any of their Vassals, Inhabitants. or Subjects : and they shall also cause restitution to be made of all depredations and spoyles which hereafter shall be committed and of the damages growing by meanes thereof,

## VI.

**A**ND whosoever shall doe any thing to the contrary, he shall be punished not only criminally according to the merit of his offence, but shall also be compelled to make restitution, and satisfaction for the losses to the parties dammified, requiring the same.

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## Branches of Statutes.

*An. XXVII. Ed. 3. c. 17.*

**I**TEM That no Marchant Stranger be impeached for anothers Trespasse, or anothers Debt, whereof he is not Debtor, Pledge, nor Mainpennor. Provided alwaies, that if our liege people Merchants or other, be indamaged by any Lords of strange Lands or their subjects, and the said Lords (duely required) faile of right to our said subjects, we shall haue the law of Merque, and of taking them againe, as hath bene used in time past, without fraud or male-engine.

*An. II. Hen. 5. c. 7.*

**T**HE King willing as well in this case, as in other, to provide the indemnity of his liege and faithfull subjects, hath declared in this present Parliament, that of all the attempts made by his enemies, upon any of his faithfull liege people, against the tenor of any truce taken

before this time, wherein is no expresse mention made, that all Marques and Reprisals shall cease : the same our Soueraigne Lord the King will grant Marke to all them that feele themselves in this case grieved in due forme. And our said Soueraigne Lord the King shall make reparaile to all his liege people that feele them grieved against the tenor of any truce, which betwixt him and any of his enemies shall be newly taken hereafter. And to the greater comfort of his said faithfull liege peopl, to the intent that they may the more readily and without long delay have remade in this case. the same our Soueraigne Lord the King wil, that if he or they that feele them grieved against the tenor and forme of such truce within the realm of England, out of the said marches of Scotland, or upon the Sea, or in the parts beyond the Sea, shall complaine to the Keeper of the priuy Seale, which for the time shall be, who after such complaint heard and perceined, thereof shall make the party complainant (if he the same require) Letters of Request under the Privie Seale in a due forme, and if after such Request made, the party required doe not make within a convenient time due restitution and satisfaction to the partie grieved, then the Chancellor of England for the time being, shall doe to be made to such partie grieved (if he that demand) Letters of Marke under the great Seale in a due forme, &c.

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## Proclamation 1. Car. for encouragement of Trade to Virginia.

**T**HAT the Territories of *Virginia*, *New-England*, and the *Summer-Islands*, &c. Are part of his Royall Empire, discednd upon him and that he holds himselfe bound, by his Regall Office, to Protect, Maintaine, and support the same (and so is resolved to doe) as well as any other his Dominions, &c.

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Presidents

## Presidents of forraigne practice toward the *English.*

**G**IVE us leave therefore to minde your Honors of the practice of other kingdomes and states in Amitie with the Crown of *England*, who make it matter of State to releive their Subjects, pretending injuries done them by any of the English out of any of their goods which come within their jurisdiction, as will appeare by these ensuing Presidents, of which we could have cited many more, but that we feare to offend your Patience.

Captaine *Jones*, Captain of one of the Parliaments ships, in the moneth of *April 1644.* seized upon a French ship belonging to one *Peter Le Duke* of Saint *Mallowes* (called the Saint *Julian*) *Peter Michelot* Master, the ship was laden with Corne, Gunpowder and other goods; Captaine *Jones* takes out the Gunpowder and some small trifles more, and sends up the ship and her lading to *London* as a Prize, where within foure moneth after she was freed in the Admiralty: Immediately upon her first takeing about, 21. *Apr. 1644.* *Peter Le Duke* obtained a Decree from the Councell of State to arrest the Goods or Ships of any of the English Subjects in obedience to the Parliament, by virtue whereof he obtained from the Judge of the Admiralty in Saint *Mallowes* a Warrant to breake open the Counting-house of *Daniel Searles*, Factor to English Merchants, and by Letters and Bookes there found that in the *Anne* of *London* (of which *Giles Symmes* was Master) there was goods to the value of 1100*.l.* belonging to Master *William Barkley* of *London* and Company Merchants; the said Officers unladed all her goods, as well Master *Barkleys* as others, and kept them in their custody untill the ship was released here, and untill full satisfaction was made to *Le Duke* for the Gunpowder and other goods taken forth of the Saint *Julian*, and to the Master for Saylor's wages, freight of the Ship and other charges for the time they were stayed, which cost Master *Barkley* and Company 350*.l.* here, and about 400*.l.* in *France*, in suites of Lawe and other charges there. These goods thus freed from *Le Dukes* Arrest, and reladen into another Ship for the Merchants of *London*, had been againe arrested upon a second pretence, by another partie, for dammages pretended to be done him by the *English*, had not the Master (in which they were re-laden) defended himselfe, and by force carried them away: Whereupon the second

cond pretenders met with another Barke in which was 600.l. worth of goods of the said Master *Barckleys*; arrested them by a Warrant from the Judge, and the greatest part of them are there to this day, and no satisfaction can be obtained.

There are divers other presidents of seizures made both by Land and Sea frequently by the *French*, of the goods of *Englishmen*, for injuries pretended to be done to them, which is done by virtue of Warrants from the immediate Judges, and not by Letters of Reprizall, for no other cause but upon a pretence that some other *Englishman* had done them an injury as in the Case of *Martin De Lawney*, which hath been in agitation above twentie years, for Goods pretended to be taken formerly by a Pirate.

*William Berkley.*

*The Treatie 1644. between the King of Denmarke, and the Parliaments Commissioners, was upon this Cause.*

**I**N the beginning of *August* 1643. The Parliaments Ships tooke the Ship called the *Christian Arke*, belonging to the King of *Denmarke*, laden with Armes and Ammunition, entring *Tinmouth Bay*, and bound for *Newcastle*; brought her up to *London*, and by Order of the House of Commons disposed of the Armes and Ammunition, returning only the Ship. Hereupon his Majesty of *Denmarke* 23. of the same Moneth, seized a Ship belonging to the Merchants Adventurers passing *Gluckstadt* upon the River *Elbe*, and bound for *Hamburgh*; as also foure other Ships belonging to the East-land Company passing the *Sound*, and confiscated both Ship and goods, without any Processe in his Admiraltie, but only by Act under his owne Hand and Scale. After three severall Treaties his Majesty of *Denmarke* did at last agree in *April*. 1645. To restore so much on his part as exceeded the value of his Armes here confiscated, which was also done by the extraordinary way of Treaty, and not by any Processe of Law.

THO. SKINNER. *Societ. Advent.*  
*Secret.*

Many Presidents might be alledged in this kinde of the practice of the *Spaniards* towards the *English*, who Seize and Condemn their goods in Port, or otherwise on Shoare, upon pretence of injuries done them, and  
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that so notoriously knowne that the Plaintiffe need give no instances thereon. And further the Judges in *Spain*, in the way of a Civill action, by Arrest Condemn the Ships and Goods of such as are in Company, having no relation to the persons, or Ships, whereof the persons are that did the pretended dammage, as will appeare by the particular Presidents of Captaine *Davis* and *Tyddyman* lately acted in *Spain*, hereafter ensuing.

THESE are to certifie unto all those whom these Presents may concerne, that in the yeere 1643, I *Thomas Davis*, Commander of the good ship called the *Golden-Fleece* of *London*, being in the Bay of *Cadix*, it happened that certain Mariners belonging to the Port of *Dover*, tooke out of the said Bay a certain Vessell belonging to the kingdome of *Ireland*, with the lading and Marriners therein; for which said Act, apprehending an injury to themselves, as in respect the said ship was taken being under their protection, seized upon me the said *Thomas Davis*, committed me to prison, and have since condemned me and my said Ship, in certain thousands of pounds for satisfaction for the said Ship and Goods; although I, the said *Thomas Davis*, had never any Consortship or interest with the said *Dover* Marriners, nor to this day know any of them, or ought proved against me to that effect. In Testimony whereof I have herunto put my hand this present 11 of *July* 1646.

*Thomas Davis.*

These things thus premised, your Honors may be pleased to observe that it is evident,

First, That the King of *Spain* hath Covenanted a Peace with the King of *England*, in the behalfe of himselfe and subjects, whereby it is agreed that restitution shall be made of all spoyles, with the dammages as aforesaid.

Secondly, That there hath beene a shamefull Depradation done upon the Ship *Elizabeth*, belonging to *Joseph Hawes* and Company; and that they have sought satisfaction in *Spain*, but without the desired effect; and the Offenders, in stead of punishment, continued in their former Commands and Employments.

Thirdly, That Justice being denied by a Prince that hath sworne a League, &c, as aforesaid; It is accounted just, and the practice of all Nations,

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tions, to satisfie the Persons suffering, out of the next goods of that Nation offending, coming within the power or jurisdiction of that Crowne under whole protection the Partie that is spoyled inhabiteth; And that the Equity hereof may more cleerely appeare, May it please your Honors to consider.

That such is the constant usage of the *Spanish* Nation towards the *English*. Our Lawes intend the same, for it is enacted *Anno. 5. Hen. 4.* That Merchants-Strangers shall be intreated in this Realme, as Merchants Denizons are beyond the Seas. In Order whereunto, there was an Act of Parliament in a particular Case, relating to the Subjects of the Duke of *Burgundie*, *An. 4. Ed. 4.* And an Act of State *An. 11. Elizab.* concerning the *Flemings* and *Spaniards*, wherby other Nations in league with the *English*, were kept to an equall observation of the Articles of Peace; And experience teacheth, That there is no better a meanes of making a Peace durable, then by being sensible of the first and least violation: This strict keeping of the *Spaniards* to a mutuall maintayning of Amitie, made him, even against his will (saith *Cambden*) beare a more favorable minde towards the *English*, and produced the renewing that Peace which from the yeere 1568. to 1573. was somewhat interrupted by the *Spaniards* shuffling with this Nation: Queene *Elizabeth* to her exceeding great honour (saith the said Author) satisfying to the full the dammages of the *English* Merchants, out of the *Nether-landers* goods, then within her jurisdiction. And it was the speech of an Ambassadour of *Spayne* to the King of *France* at *Bloys* *An. 1599.* That if the publique Faith did not maintayne reciprocall Bonds, the Peace would be more injurious then War, being impossible to avoid the deceipts of him that was a friend in shew, but in effect an enemy; And by this it is, that Articles of Peace which are principally made for the defence of the Innocent, become snares to them, and advantages to the injurious; *Et infirmatis violatisq; pactis tollitur inter homines commerciorum usus.* And in this Case where in there is no other remedy, the Lawe of Nations ordaynes, that by equall wrong Princes and People that keepe not Faith should be enforced to doe equall right. For, is it reasonable that the Nation should have the benefit of those Articles of Peace, by which themselves will not be bound. It is therefore enacted by the Lawes of this kingdom. 10. *Hen. 6.* That any Subject of the Crowne of *England*, that is spoyled by a forreigne people, shall have Letters of Request, under the Privy Seale, for his satisfaction, which if not had in convenient time; The King by advice of his Councell shall provide remedy for the partie grieved, which is further explained

*An.*



*An. 4. H. 5.* and it was accustomed to be done by the rules of naturall Equity, for by tedious and chargeable suites, the burden of the oppressed is made heavier, which at the best is pittifull, and where they have relation to the *Spanyard*, most miserable : My Lords and Gentlemen, you are his Majesties greatest Councell now oportunely sitting; These honorable Houses have ever been the Fountaines of Justice; Hence we draw the waters of our livelyhoods and liberties : You are those from whom we expect shelter against the stormes of forreigne windes, and the droppings of unjust judgements : You are the refuge and Sanctuary of the distressed members of this kingdome; Nor is there any thing will be a more acceptable service unto God, nor render you more honorable to men, then to relieve the oppressed. Actions of Justice and Mercy are equivalent to the Majesty and Greatnes of this Assembly; with you is Power if there be any Balm in *Gilead*; with you is Wisedome to discern the high inconveniences that ensue upon connivence at injuries of this nature and to perceive that through our sides the Nation is wounded, when unto other former attempts to discourage the Navigation of the *English* to the *Western-Plantations*; this Depredation is added in a purposed hostile manner, aggravated by the affronting speech of the Marquesse *Cardeniza* Generall of the Fleet, *That he would carry us into Spayne to knowe if the King his Master would give leave to the King of England that his subjects might plant and trade in Virginia*; as if we had begged a Gibeonitish Peace, and must be content with our lives and enjoy the benefit of the Articles, as they please to interpret them.

Sure the Honor of the *English* Nation is not come to this, nor are those Plantations with so great charge brought to some perfection, to have so short an end as the Will of the *Spanyard* would measure them out. The designe was higher, and had a further intent, and may hereafter have a more seasonable thought; which is left to the Wisedome of this State. It only remains that *ex abundanti* We shew your Honors the equity of our pretensions; that though by the Lawes of this kingdome, and the practices of other Nations, we ought to have reparations (out of the goods of any of that Nation that hath done us the injurie) yet more especially against these Goods and Persons, entitling themselves owners; And first for the Goods.

They are our most certain hold, proved to be taken out of the *Vice-Admirall* of the *Spanish West-India* Fleete [see the proses made in the *Admiralty Court*, Fol. 19. 29. 32. & fol. 24. 34.] and then we alledge, That the *Spanish West-India* Fleete that robbed the *Elizabeth* in 1637. and this

in *An. 1640.* were one and the same; set out by the same power and authority, and to the same end, *Viz.* under the authority of the Contratacion House, Persons deputed to mannage that particular Trade, and the Fleete therson depending; the end, To appropriate the profit of that Trade to the King of *Spainne* and some others that by Licence he incorporates to himselfe, taking an Average of all the Plate and Merchandize that comes thence, *Viz.* a third or fourth of the returne for the maintenance of the Men of Warre that execute the Orders of that House, in the spoyle of those that trade thither without Licence. That in this Fleete were severall Ships, Commanders and Souldiers that were in the Fleete 1637 [fo. 27. 28.] that tooke the *Elizabeth*; That these Goods came to *Southampton*, not in a way of Merchandize and Commerce, but casuall and by accident brought in, otherwise bound for *Spainne*.

And for the Persons pretended owners. It is by themselves confessed upon Oath, that they are all usuall Traders to the *West Indies*. In particular *Hieronime Favian Loretto*; That he hath used to sayle to the *West-Indies* and traded for these 12 yeeres. [fol. 94.] *Ignatius Landahola* hath used to trade by the space of 11 yeeres, and that he hath been 7 voyages in the *West Indies*. [fol. 105.] *Marcus de la Rambida*, That he hath traded about 12 yeeres, & beene in the *Indies* 8 severall voyages. [fol. 107.] That in this voyage 1640 they were about two yeers before they returned; That the Ships that goe forth in one yeere, returne not untill the next, whereby of necessitie it must follow; That these very persons were in the Fleete that robbed the *Elizabeth*, being in all the voyages for the space of 11 or 12 yeeres, and therefore most just, in all respects, that the monies in the Parliaments hands, being the proceede of these Goods should be the satisfaction of your present Petitioners the Administrators of *Joseph Hawes*, in the behalfe of themselves and others, the rather for that upon their first arrivall the said Ship and Goods were arrested by them by an Action out of the Admirakie. We shall now with *Brutus* to the Senate of *Rome*, only shew our wounds, and waite the stirring opportunity of your healings, Our wounds yet bleeding are too apparent.

*Joseph Hawes* and Company by the first spoyle. endamaged above 12000.l. The advantage that was like to have accrued to them by that voyage is proved to be about 5000.l. more.

The want of that stock for 9 yeeres in their Trades may be easily valued, the parties having paid 8 per cent. themselves. The prejudice that *Joseph Hawes* had in the losse of a known faire estate; His imprisonment and death with griefe followed. The consequences of this Depredation

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in the losse his friends susteined, who were in naturall affection bound to his support, which they were the rather incouraged to doe by the hope they had of his reliefe out of Silver and Merchandize by him arrested, belonging to the *Spanyard*, brought higher in an English bottom from the *Summer-Islands*.

The ruine of his naturall Brother *Nath. Hawes*, ingaged for him in divers great summes of money. part of which he paid, and had Execution served upon his estate for more, to his dammage above 6000*.l.* besides losse of his Trade, which he is ready upon Oath to testifie, being the prooffe the Law in this case requites.

*Randall Mainwaring* and *Geo. Payne* that married his two Sisters have likewise paid severall great summes of money for him, and rest ingaged for more.

There hath beene spent 1400*. or 1500*.l.** in pursuance of satisfaction. These dammages we humbly conceive Justice will make good, besides the sufferances of the Saylor and Passengers.

We might further move your pittie, by putting you in minde of the necessities of the said Ships company; some Widoes and Children, relicts of those deceased, wanting bread, whom the charitie of others supports.

We are therefore bold to cast our selves into the sympathizing Armes of this Common-wealth, by your Honors represented. It was the saying of the wise *Solon*, *That that Common-wealth was only Well governed wherein every man took the injuries done to another as done to himselfe and to Justice.*

The Lord direct the Judgement to be such, that it may be for the publique good of the Nation, the vindicating the Honor thereof, the preventing future injuries, and manifestation of that Justice which is Gods own work, and you the faithfull dispensers.

In assured confidence whereof, we your humble Petitioners shall blesse God for you, and the happie effects of Justice and protection that flowe from these honorable Houses.

*Hac una reges olim suus sine Creati  
Dicere jus populi, injustas, tollere facta.*

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